MONTANA LEGISLATIVE HISTORY

Chapter 384 1975

Bill H 656 S _____ Original bill & history ✓ C

H. Committee on Education

Hearing Date(s) _____ C

_____ C

2/13 ✓ C

_____ C

Date Out 2/18 C

S. Committee on Labor & Emp. Rel.

Hearing Date(s) _____ C

3/14 ✓ C

3/19 C

_____ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

House BILL NO. 656

INTRODUCED BY Johnson, Lester, Hansen, Kemmis, Palmer, Gwynn, Hellebuyck, Huennekens, Harper, Nelson, Dussinger, Bradley, Zuebek, Merriam, Manley, Shelden, Thomas, Brand, Lund, Kitzenberg

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 59-1602 AND 59-1605, R.C.M. 1947, BY ALLOWING STUDENT REPRESENTATIVES TO PARTICIPATE IN NEGOTIATIONS INVOLVING THE BOARD OF REGENTS AND PUBLIC EMPLOYEES IN CERTAIN CASES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 59-1602, R.C.M. 1947, is amended to read as follows:

"59-1602. Definitions. When used in this act: (1) "public employer" means the state of Montana or any political subdivision thereof, including but not limited to, any town, city, county, district, school board, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and any representative or agent designated by the public employer to act in its interest in dealing with public employees~~?~~ , when the board of regents is the public employer defined in this section, the student government at an institution of higher education may designate an agent or representative to negotiate on behalf of the public employer together with the board of regents;

(2) "public employee" means a person employed by a public employer in any capacity, except elected officials, persons directly appointed by the governor, supervisory employees and management officials (as defined in subsection (3) and (4) below) or members or any state board or commission who serve the state intermittently, professional instructors, teachers, school district clerks and school administrators, and paraprofessional instructors employed by school boards and districts of this state, registered professional nurses performing service for health care facilities, professional engineers and engineers in training, and includes any individual whose work has ceased as a consequence of, or in connection with, any unfair labor practice or concerted employee action;

(3) "supervisory employee" means any individual having authority, in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, having responsibility to direct them, to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(4) "management officials" means representatives of management having authority to act for the agency on any matters relating to the implementation of agency policy;

(5) "labor organization" means any organization or association of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, fringe benefits, or other conditions of employment;

(6) "exclusive representative" means the labor organization which has been designated by the board as the exclusive representative of employees in an appropriate unit or has been so recognized by the public employer;

(7) "board" means the board of personnel appeals provided for in section 82A-1014;

(8) "person" includes one or more individuals, labor organizations, public employees, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(9) "unfair labor practice" means any unfair labor practice listed in section 5 [59-1605];

(10) "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand the proximate relation of employer and employee;

(11) "appropriate unit" means a group of public employees banded together for collective bargaining purposes as designated by the board."

Section 2. Section 59-1605, R.C.M. 1947, is amended to read as follows:

"59-1605. Unfair labor practices of employer or labor organization. (1) It is an unfair labor practice for a public employer to:

(a) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 3 [59-1603] of this act;

(b) dominate, interfere, or assist in the formation or administration of any labor organization; however, subject to rules adopted by the board under section 12 (3), an employer is not prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(c) discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; however, nothing in this act or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require that an employee who is not or does not become a union member shall be required as a condition of employment

to have an amount equal to the union initiation fee and monthly dues deducted from his wages in the same manner as checkoff of union dues;

(d) discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this act;

(e) refuse to bargain collectively in good faith with an exclusive representative.

(2) It is an unfair labor practice for a labor organization or its agents to:

(a) restrain or coerce employees in the exercise of the right guaranteed in subsection (1) of section 3 [59-1603] of this act or a public employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(b) refuse to bargain collectively in good faith with a public employer, if it has been designated as the exclusive representative of employees;

(c) use agency shop fees for contributions to political candidates or parties at state or local levels.

(3) For the purpose of this act, to bargain collectively is the performance of the mutual obligation of the public employer, or his designated representatives, and the representatives of the exclusive representative to meet

at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached. Such obligation does not compel either party to agree to a proposal or require the making of a concession. In negotiations between the board of regents and the representative of the exclusive agent, the student government may designate a representative or agent to negotiate in its interest as a public employer in respect to the matters provided in this act except in negotiations concerning merit increases, television and radio tape residuals, evening and extension assignments, sabbatical leave, leaves of absence, maternity and sick leave, tenure, and intercollege agreements.

(4) This act does not limit the authority of the legislature, any political subdivision or the governing body, relative to appropriations for salary and wages, hours, fringe benefits, and other conditions of employment."

-End-

HB 656

EDUCATION COMMITTEE

February 13, 1975

The meeting was called to order at 8 a.m., with all members present except Rep. Kvaalen, who was excused.

House Bill 656 was discussed. Rep. Johnson, chief sponsor, gave a long statement in support of the bill. His statement is attached.

Proponents were: Rep. Dennis Lester, Bruce Nelson (who also played a tape from Professor K. Ross Toole), Jim McGarvey. Their testimony is attached.

House Bill 358 was discussed. Rep. Bengtson, chief sponsor, said the bill pertains to legal holidays for school purposes. Maynard Olson and Maurice Hickey testified in support of the bill. Their statements are attached.

House Bill 240 was discussed. Rep. Brand, chief sponsor, made a statement in support of the bill (attached). Wally Edland testified as a proponent of the bill.

Jim Beck and Norris Nichols testified on the bill, giving information to the committee. Their statements are attached.

House Bill 513 was discussed. Rep. Finley, chief sponsor, submitted an exhibit showing enrollment in units of the university system and community colleges. He said the bill is just a method of dividing the tax so community colleges benefit from it.

Proponents were: John Bartlett, Vernon Kailey, Joe DeLong, Jim Hoffman, Jean Robacher, Jo Ellen Estensen and Jack Noble. Their statements are attached.

Ed Nelson testified as an opponent to the bill. His statement is also attached.

Rep. Finley said the problem with a direct appropriation is that the Legislature only meets once every 2 years and the colleges must budget each year. Under this system, planning is difficult.

Several amendments are needed to the bill, and will be submitted to the committee at a later date.

House Bill 483 was discussed. Rep. Dussault, chief sponsor, said this bill cleans up some conflicts in the law. She introduced Harold Rehmer, who said this bill deletes references to "graduation from 8th grade" and makes the requirement that a child be in school until he is 16.

NAME Rep. Duane Johnson Bill No. 656

ADDRESS _____ Date _____

WHOM DO YOU REPRESENT? sponsor

SUPPORT xx OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

As a labor leader, I have spent 15 years in bargaining, and I find myself in trouble with labor and from employers on this bill. Students of the university system play a role in the collective bargaining process. They are the captives of the process and do not share the benefits, but do share the burdens and because of this I feel they should be part of the process.

The cost is high in collective bargaining and the taxpayers will have to pay for it, and students and their parents are the taxpayers. It seems to me that students should be able to have input into the process and be part of it. If there is unrest on campuses and strikes, the students are the largest number of people who will share in the burdens of this but will not get the benefits from it.

This is a unique burden the students have to share in the collective bargaining process. This bill puts a student on the collective bargaining team on the side of the Board of Regents, or employer. Some people were afraid of setting up a process whereby a student would have a part in what would happen at the bargaining table, but I think it is only right.

In closing - I am concerned about polarization of students. I think that student unrest in the 60's was caused by having a large population of students being ruled by a small portion of society and having no voice. We cannot ask students, who have the largest role to play in collective bargaining, to bear the burdens of the process without giving them a voice and role to play in the process. If we do that the collective bargaining process on the campuses of the state will fail. I believe polarization is inevitable unless this Legislature passes this bill.

NAME Leanne Lester Bill No. HB656

ADDRESS 1412 4th Ave. So. Great Falls, Mont Date 2/13/75

WHOM DO YOU REPRESENT? Myself

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Co-sponsor

I believe in this Bill. In my years at the university of Montana I felt that the student is almost the employer along with the Board of Regents and should have some input because it is their money involved.

Students at the universities are over the age of 18 and should be included.

Mr. Chairman and members of the committee, I am Bruce Nelson, legislative representative for the Montana Student Lobby which is composed of the Associated Students of the U of M, MSU, EMC, NMC, and Montana Tech. I come before you today to express the Student Lobby's full support for House Bill 656.

In 1974, the 43rd Legislative Assembly enacted House Bill 1032, allowing the professional educational employees at the units of the university system the right to organize and bargain collectively under the provisions of the Public Employees Collective Bargaining Act. The Montana Student Lobby has carefully examined the results of collective bargaining at universities and colleges across the nation. We have concluded that student rights and interests have been significantly affected by those negotiations. Thus, we seek access to the bargaining process to protect our rights and interests - House Bill 656 provides the vehicle for that access.

I want to emphasize that the Montana Student Lobby does not oppose collective bargaining - we fully recognize the right of employees to organize and negotiate as a bargaining unit. It is our contention however, that the traditional bipartite industrial bargaining model is inadequate as a decision making device for our institutions of higher learning without modification to allow for student participation. Our justification for access to the negotiations is threefold.

First, students are not simply consumers in the traditional sense. Our time, money and energy is invested in the process of education in a manner which in fact makes us as much a co-producer of education as a consumer of education. Hence the results of collective bargaining would be felt by students in a direct and unique manner. Second, we have traditionally shared a role in the governance of our universities and colleges, by participation in the formulation of curriculum, plans for campus development and a host of other programs and policies. Such a role would be lost if these matters were decided upon at the negotiating table under a broad interpretation of "conditions of employment." And third, we believe we have a vested interest in a process which can ultimately affect the amount we pay in student fees.

The concept embodies in House Bill 656 of expanding the public employer to include a student agent or representative is unprecedented. We recognize the futility of tripartite bargaining - as our fees are used for faculty salaries and over-head costs, we beieve for purposes of selecting a side of the negotiating table, that our interests are more clearly aligned with management. This does not, however, mean our interests will always necessarily be one and the same with the Board of Regents.

Students are in the classrooms with the faculty day in and day out, thus we more than anyone else appreciate the vital need for high quality faculty and recognize the corresponding costs involved. What we fear more than an increase in costs is a decline in quality. As Frederic M. Mrandes, Executive Director of the University Senate at the CUNY System recently said, "Just as the faculty build their community of interest on the gasis of academic freedome as expressed in the terms and conditions of employment, the cornerstone of the student community of interest is academic freedom in the terms and conditions of education."

As we are attempting only to maintain our part in the decision making process - expanding it only where we clearly have a vested interest, we have on page 6, lines 12-16 excluded ourselves from negotiating on matters in which we have not traditionally played a role.

With this proposal, we seek only the right to continue to exercise our collegial responsibility of shared governance at our institutions of higher learning. We recognize and welcome the responsibility enactment of this measure would place on students. It is our hope we would prove worthy of the task.

We wish to commend Rep. Johnson for introducing House Bill 656 and to strongly urge that you give it favorable consideration. On behalf of the MSL, I thank you for allowing me this opportunity to address your committee.

the
montana student lobby
P.O.BOX 415 HELENA, MONTANA 59601 458-5305

M E M O R A N D U M

Members of the House Education Committee

: The Montana Student Lobby

: February 13, 1975

House Bill 656

The following material is submitted to members of the House Education Committee as background material and testimony on HB 656. The report is an explanation of the need for student access to the collective bargaining process as is granted by HB 656.

The report is organized as follows:

The brief introduction is a recognition that professional employees have a right to bargain collectively under the provisions of the Public Employees Collective Bargaining Law. In recognition of this fact we contend that students have a right to participate in the collective bargaining process.

Part one is an explanation of why we feel we are justified in our contention. There are three main reasons for this contention: 1) Students are more than simply "consumers" of higher education; 2) Students have traditionally shared a role in governance of colleges and universities; and 3) Students have a vested interest in negotiations concerning faculty salaries and fringe benefits.

Part two describes how HB 656 provides student access to the collective bargaining process and explains why we chose to become part of the "public employer" for the purpose of participating in collective bargaining negotiations. In part two we also stress that we are only seeking to maintain the existing collegial relationship between faculty, administration and students.

The conclusion is a brief summation of why we feel that students have a right and a responsibility to be involved in collective bargaining negotiations at our colleges and universities.

We hope that you will give this report serious consideration and act favorably upon HB 656.

In 1974, the 43rd Legislative Assembly enacted House Bill 1032, allowing the professional educational employees at the units of the university system to bargain collectively under the provisions of the Public Employees Collective Bargaining Act. Recognition that this law m be utilized in the near future has prompted the Montana Student Lobby to carefully examine the results of collective bargaining at universitie and colleges in other states. We have concluded that student rights and interests have been substantially affected by those negotiations. Thus we seek access to the collective bargaining process in order to protect our interests. House Bill 656 provides us that access.

PART ONE

At the outset it must be pointed out that this measure neither supports nor opposes collective bargaining. We do recognize the right of faculty unions to organize and bargain collectively. However, we contend that the traditional industrial collective bargaining model is inadequate as a decision-making device for our colleges and universitie The proposal put forth for your consideration in HB 656 modifies the traditional bargaining model to allow for student participation. We believe that student participation is justifiable for three basic reasons: 1) Students are more than simply "consumers" of higher education; 2) Students have traditionally shared a role in governance of colleges and universities; and 3) Students have a vested interest in negotiations concerning faculty salaries and fringe benefits. First, students are more than simply "consumers" of higher education an therefore do not fit the traditional collective bargaining model. The

in a very real sense, co-producers of education as their own time, money and energy is invested in the process as well as that of the administration and faculty. The effects of collective bargaining would be felt by students in a way far more directly and uniquely than by consumers who, if dissatisfied, can easily switch to another product without significant disruption to his life. Second, students have in the last decade undertaken a role in the joint governance of our colleges and universities. For example, at the University of Montana there are student representatives on faculty senate, campus development committee, curriculum committee, and a host of other regular and ad-hoc committees. This collegial relationship of joint decision-making between faculty, administration and students would be destroyed by the imposition of a rigid two-party collective bargaining process. Of course, the question may be asked, "What does faculty senate, curriculum and campus development committees have to do with collective bargaining?" According to Israel Kugler, president of the United Federation of College Teachers; American Federation of Teachers, AFL-CIO, these very subjects along with many other matters such as class size, academic calendar, student activities and new programs are negotiable under the "conditions of employment" clause which is included in the Montana act. Admittedly, these conditions define the broadest parameters of negotiation, but it is obvious that we, as students, would lose our role in decision-making if locked out of bargaining on these topics.

This brings us to our third point, that students have a vested interest in negotiations conducted even within the narrow parameters "wages and fringe benefits . . . ." In the last decade, student fees

bargaining process.

Section 59-1608.1, R.C.M. 1947, declares: "Since joint decision making is the long accepted manner of governing institutions of higher learning, the legislature declares that it is public policy to encourage that process by authorizing collective bargaining as one part of the decision-making process . . . the legislature recognizes that professional educational employees possess knowledge, expertise, and dedication which is helpful and necessary to the operation and quality of the institutions . . . ."

Students also possess knowledge, dedication, and expertise, traits which make them, and have made them in the past, a vital part of the success or failure of the academic mission of an institution. In the final analysis, we must contend that institutions of higher learning exist solely because of the students.

PART TWO

House Bill 656 embodies an entirely new and unprecedented concept. It provides for a representative or agent of the students government at the unit or units involved in collective bargaining negotiations to become part of the public employer along with the Board of Regents. Representatives of the Board of Regents and the student government would bargain as the public employer with the representative of the exclusive agent. The student representative or agent would be subject to all the provisions of the Public Employees Collective Bargaining Act, such as good faith bargaining and mutual performance of obligation. Recognizing the futility of tripartite negotiations, we chose to expand the concept of the public employer to allow student participation. There are only

25 percent of the cost of operations at the Missoula unit. (See App. A.)

With the ever increasing demands on the limited financial resources of state government, students are the most obvious and convenient source of increased revenue. Yet, as one shrewd observer of academia explained "We may have reached a point where just a little more makes more than a little difference." In other words, we may be to the point where increasing costs to the student may simply price higher education out of his reach. "Just a little more" may in fact deny him the educational opportunity guaranteed by Article X, Section 1, The Constitution of the State of Montana, 1972.

This does not mean, however, that students are or will necessarily be opposed to increased fees. We are the ones in the classroom, where the action is. We, far more than the administrators or management, appreciate excellence and realize the high cost of attracting and maintaining a high quality faculty. We understand that without the best, it is the quality of our education that suffers most directly. What we fear more than an increase in cost is a decline in quality. As Frederic M. Brandes, Executive Director of the University Senate at the City University of New York said in an article entitled, Student Participation in Collective Bargaining by Right and Necessity, "Just as the faculty build their community of interest on the basis of academic freedom as expressed in the terms and conditions of employment, the cornerstone of the student community of interest is academic freedom as expressed in the terms and conditions of education."

In part one, we have attempted to demonstrate that the opportunity to obtain a high quality education, maintain a system of shared govern-

be in two places at one time compelled us to choose one side or the other. We believe, as students paying fees which are used for wages, fringe benefits and overhead costs of educational programs, we are not clearly aligned with management. However, despite our sitting on the management side of the bargaining table, the interests of the Board of Regents and the students will obviously not be the same in all cases. One can foresee instances when students would be more sympathetic to the position of the employee. In this regard, it can be expected that the introduction of students into the process may serve as a "cushion" influence.

A method of designating a representative or agent if more than one unit is involved in negotiations will be formulated when the decision regarding the level negotiations are to be conducted at is reached. This is essentially an administrative detail which does not need to be included as part of the statute.

It must be emphasized that we are seeking to protect the existing rights and interests of students. For this reason we chose to exclude ourselves from areas of negotiation in which we have never before been involved. This is to insure that our role in the governance of the institution is not expanded but only maintained at the present level.

CONCLUSION

The desire of students to maintain their traditional role in the decision-making processes at our universities and colleges in the era of collective bargaining has necessitated introduction of House Bill

We seek not to expand our rights, for our collegial responsibility dictates shared governance. We seek merely to maintain these rights

to continue to do our part in the promotion of quality education in a atmosphere of academic freedom. The responsibility such action on your part would place on students is welcomed -- it is our sincere ho we prove worthy of the task.

NAME Jim McGarvey **Bill No.** 656

ADDRESS _____ **Date** _____

WHOM DO YOU **REPRESENT?** MFT - AFL-CIO

SUPPORT xx **OPPOSE** _____ **AMEND** _____

PLEASE LEAVE **PREPARED STATEMENT WITH SECRETARY.**

Comments:

Our organization represents professors and instructors on all the campuses of the state.

I have been asked by many of them to speak on this bill. They are concerned that students will be used by management in the collective bargaining process if they are placed on the side of the Board of Regents.

They do not want to see the student caught in the middle.

Rep. Guthrie moved that House Bill 566 and 588 DO NOT PASS. The committee decided to have a show of hands on the motion, and it failed. The committee then decided to pass these bills for the day.

Rep. Menahan moved that House Bill 589 be postponed indefinitely. The motion was seconded and passed unanimously.

Bruce Nelson submitted amendments to House Bill 656. Rep. Dussault moved adoption of the amendments. The motion was seconded and passed unanimously (Reps. Lory, Scully and Holmes excused). (The amendments are attached.) Rep. Dussault them moved that House Bill 656 DO PASS AS AMENDED. The motion was seconded and passed with Rep. Casey voting NO, Rep. Guthrie abstaining and Reps. Lory, Scully and Holmes excused.

There being no further business, the meeting adjourned at 10:30 a.m.

PROPOSED AMENDMENT TO HOUSE BILL 656:

1. Amend the title, page 1, line 7.

   Following: "CASES"
   Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Amend page 1, section 1, libe 23.

   Following: "negotiate"
   Insert: "with the professional educational employees"

3. Amend page 6, section 2, subsectoipn (3), line 9.

   Following: "of the"
   Strike: "exclusive agent"
   Insert: "professional educational employees"

4. Amend page 6, following line 20.

   Insert: A new section 3 to read as follows:

   "Section 3. This act is effective on its passage and approva

AS SO AMENDED
DO PASS

amendments proposed by Mr. Huss. Mr. Sternhagen stated that p... of the bill were feather bedding.

Roger Briggs, of Cenex in Laurel, appeared in opposition to thi bill. (See attached testimony.)

L. Coussineau, of the Anaconda Aluminum, appeared in opposition to HB 408. The training period and competence test would help this bill. Mr. Coussineau stated that alot of boilers are one man operati Many men in seniority ask for these positions. The only way they coul get into this position under this bill is to have over three years or so experience.

Martin Frelinger, of Hoerner Waldorf, appeared in opposition to this bill. This bill would limit the authority of the special boile: inspectors. (See attached testimony.)

Joe McCarthy, of the Anaconda Company, appeared in opposition to HB 408. This would require about 50 more licenses. We have not had any accidents caused by boilers due to lack of inspection or operatio We check the boilers once a shift.

Jim Burt Evans, appeared in opposition to this bill. There are two phases. For Turbins, first class engineers should be available to handle the operation of boilers and turbins. Secondly, there is no reason for licensing for low pressure boilers.

Sonny Hanson, of the Montana Technical Council, appeared to provide technical data in regards to specific effects and aspects of the bill.

Vince Bosh provided copies of two resolutions, SR 15 and HR 20 that dealt with this bill.

Representative Johnson, in closing, stated that this is not a feather bedding bill. Representative Johnson stated that he was surprised at the opposition to a safety bill. There might be a litt more money required to cover these inspection. It seems people are more interested in profit rather than safety.

Discussion was then held by the committee.

CONSIDERATION OF HOUSE BILL 656: An act to allow student repres tatives to participate in negotiations involving the Board of Regents and Public Employees in certain cases; and providing an immediate effective date.

Representative Johnson, appeared before the committee to introdu this bill. This bill has to do with collective bargaining on campuse of this state. Students have to have a role in this procedure for without students the process would not be complete. The students kn as well as anyone what is needed on campus. The student pays a good percentage of running the university system across the state. There a amendments proposed to the bill that merely clarify the intent. The

mendments are acceptable and self explanatory.

K. Ross Toole, of the University of Montana, and professor in istory, appeared in support of this bill. Mr. Toole stated that hen you come down to it, it is hard to decide exactly who a professor orks for. Is it the taxpayer, the Dean, the Academic Vice President, he Department Head, the Board of Regents, or the President of the niversity? Actually it is the student that a professor works for. he student is the one who knows where a professor is all the time r how he conducts his class, or what kind of teacher he is. Therefore he student should have a say in the bargaining procedure.

John VandeWetering, Professor at Montana State University, appeared n support of this bill as amended. This will add to the collective argaining process and strive for higher education.

Jim McGarvey, of the Montana Federation of Teachers, appeared in upport of HB 656. Mr. McGarvey stated that after studying the bill t is right for the student to participate in collective bargaining . e did have some concern with this bill at first but with the amendments e too support this bill. Mr. McGarvey proposed an amendment also o the bill to add the confidentiality clause. (See attached.)

Ray Gulich, of Joplin, appeared in support of HB 656. It is mportant to draw attention to matters concerning student participation. hese freedoms are needed for the students. There could not be a etter experience for proper labor relationships.

Bruce Nelson, Montana Student Lobbyist, appeared in support of his bill. This bill provides for student access to the collective argaining process. Mr. Nelson read from an article in one of the niversity newspapers. This article was on Tom Everett who went along ith the concept of students involved in collective bargaining. r. Nelson provided the committee with prepared testimony. (See ttached.)

Representative Johnson, in closing, stated that this is one of he most significant bills proposed. Representative Johnson stated hat he is a person with great respect for the collective bargaining rocess. In any collective bargaining process on campuses in this tate students should have participation.

Discussion was then held by the committee.

FURTHER CONSIDERATION OF HOUSE BILL 481: Wally Edland, of the ontana School Boards, stated that they would support HB 481 with the roposed amendment. (See attached.) This amendment puts in a new .C.M. section. Senator Olson asked if amendments 2 & 3 were going o be deleted. Mr. Edland stated that the first amendment was the ecessary one.

DISPOSITION OF HOUSE BILL 408: Senator Smith moved to adopt the amendments. (See standing committee report.) Motion carried with Senator's Lee, Mehrens and Norman opposed. Senator Smith then moved that HB 408 AND AS SO AMENDED, BE CONCURRED IN. Motion carried with Senator Etchart opposed.

DISPOSITION OF HOUSE BILL 427: Senator Etchart moved to adopt the amendments proposed by Mr. Huss. (See standing committee report for amendments number 2 & 3.) Motion carried with Senator's Lee, Mehrens, and Norman opposed. Senator Etchart then moved to adopt the amendments on "log loading equipment" motion carried unanimously. (See standing committee report amendment number 1.) Senator Smith moved that HB 427 AND AS SO AMENDED, BE CONCURRED IN. Motion carried with Senator's Ethcart, Olson and Blaylock opposed.

DISPOSITION OF HOUSE BILL 443: Senator Mehrens moved to adopt the amendments. (See standing committee report.) Motion carried unanimously. Senator Norman moved that HB 443 AND AS SO AMENDED, BE CONCURRED IN. Motion carried with Senator Etchart opposed.

DISPOSITION OF HOUSE BILL 444: Senator Etchart moved that the amendment proposed by Bill Romine be adopted. Senator Etchart withdrew his motion and made a substitute motion that HB 444 BE NOT CONCURRED IN. Motion carred with Senator's Lee, Mehrens, and Norman opposed.

DISPOSITION OF HOUSE BILL 656: Senator Mehrens moved to adopt the amendments. (See standing committee report) and that HB 656 AND AS SO AMENDED, BE CONCURRED IN. Motion carried unanimously.

DISPOSITION OF HOUSE BILL 676: Senator Etchart moved that HB 676 BE NOT CONCURRED IN. Motion failed. Senator Mehrens moved that HB 676 BE CONCURRED IN. Motion carried with Senator's Olson, Etchart, and Hazelbaker opposed.

FURTHER CONSIDERATION OF HOUSE BILL 427: With HB 444 BEING NOT CONCURRED IN, Senator Etchart moved to reconsider the action on HB 427 motion carried unanimously. Senator Etchart then moved that the amendment on "air compressors" be adopted into HB 427. (See standing committee report.) Motion carried unanimously.

DISPOSITION OF HOUSE BILL 490: Senator Smith moved that HB 490 BE CONCURRED IN. Vote was tied HB 490 passed out of committee WITHOUT RECOMMENDATION.

DISPOSITION OF HOUSE BILL 691: Senator Olson moved that HB 691 BE NOT CONCURRED IN. Motion failed with Senator's Norman, Mehrens, Smith, and Lee opposed. Senator Smith then moved that HB 691 BE CONCURRED IN. Motion carried with Senator's Etchart, Olson, and Hazelbaker opposed. Chairman Lee extended the courtesy of voting on these bills to Senator Blaylock who was excused from the meeting.

ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

44th LEGISLATIVE SESSION 1975

NAME	PRESENT	ABSENT	EX
Senator Robert Lee, Chairman	✓		
Senator Richard Smith, V.Chmn.	✓		
Senator Chet Blaylock	✓		
Senator Mark Etchart	✓		
Senator Frank Hazelbaker	✓		
Senator John Mehrens	✓		
Senator Bill Norman	✓		
Senator S. A. Olson	✓		

SENATE _____ COMMITTEE

BILL _____ VISITORS' REGISTER DATE

NAME	REPRESENTING	BILL #	(check) SUPPORT
John VanderWerking	AARP	656	✓
Toni Stechbarger	ASUM (U of M students)	656	✓
Lucy Reynolds	ASUM	656	✓
K Von Tobe	U of M	656	✓
Bill Nelson	U Montana Student Lobby	656	✓
Randy Cox	Montana Student Lobby	656	✓
Laura Mitchell	Montana Student Lobby	656	✓
Jim McGreevy	Mont Fed of Teachers	656	✓

HOUSE BILL NO. 656

INTRODUCED BY JOHNSON, LESTER, DUSSAULT, KEMMIS, PALMER, GWYNN, HELMBRECHT, HUENNEKENS, FLEMING, BRADLEY, SOUTH, MAGONE, TROPILA, SHELDEN, FISHBAUGH, BRAND, GUNDERSON, KIMBLE, HARPER, HALVORSON, DASSINGER, LUEBECK, MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 59-1602 AND 59-1605, R.C.M. 1947, BY ALLOWING STUDENT REPRESENTATIVES TO PARTICIPATE IN NEGOTIATIONS INVOLVING THE BOARD OF REGENTS AND PUBLIC EMPLOYEES IN CERTAIN CASES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 59-1602, R.C.M. 1947, is amended to read as follows:

"59-1602. Definitions. When used in this act: (1) "public employer" means the state of Montana or any political subdivision thereof, including but not limited to, any town, city, county, district, school board, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and any representative or agent designated by the public employer to act in its interest in dealing with public employees~~,~~, when the board of regents is the public employer defined in this section, the student government at an institution of higher education may designate an agent or representative to ~~negotiate WITH THE PROFESSIONAL EDUCATIONAL EMPLOYEES on behalf of the public employer together with the board of regents;~~ MEET AND CONFER WITH THE BOARD OF REGENTS AND THE FACULTY BARGAINING AGENT PRIOR TO NEGOTIATIONS WITH THE PROFESSIONAL EDUCATIONAL EMPLOYEES, TO ~~PARTICIPATE IN THOSE NEGOTIATIONS~~ OBSERVE THOSE NEGOTIATIONS AND PARTICIPATE IN CAUCUSES AS PART OF THE PUBLIC EMPLOYER'S BARGAINING TEAM, AND TO MEET AND CONFER WITH THE BOARD OF REGENTS ~~PRIOR TO THE REACHING OF AN AGREEMENT~~ REGARDING THE TERMS OF AGREEMENT PRIOR TO THE EXECUTION OF A WRITTEN CONTRACT BETWEEN THE REGENTS AND THE PROFESSIONAL EDUCATIONAL EMPLOYEES. THE STUDENT OBSERVER IS OBLIGED TO MAINTAIN THE CONFIDENTIALITY OF THESE NEGOTIATIONS.

(2) "public employee" means a person employed by a public employer in any capacity, except elected officials, persons directly appointed by the governor, supervisory employees and management officials (as defined in subsection (3) and (4) below) or members or any state board or commission who serve the state intermittently, professional instructors, teachers, school district clerks and school administrators, and paraprofessional instructors employed by school boards and districts of this state, registered professional nurses performing service for health care facilities, professional engineers and engineers in

REFERENCE BILL

training, and includes any individual whose work has ceased as a consequence of, or in connection with, any unfair labor practice or concerted employee action;

(3) "supervisory employee" means any individual having authority, in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, having responsibility to direct them, to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(4) "management officials" means representatives of management having authority to act for the agency on any matters relating to the implementation of agency policy;

(5) "labor organization" means any organization or association of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, fringe benefits, or other conditions of employment;

(6) "exclusive representative" means the labor organization which has been designated by the board as the exclusive representative of employees in an appropriate unit or has been so recognized by the public employer;

(7) "board" means the board of personnel appeals provided for in section 82A-1014;

(8) "person" includes one or more individuals, labor organizations, public employees, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(9) "unfair labor practice" means any unfair labor practice listed in section 5 [59-1605];

(10) "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand the proximate relation of employer and employee;

(11) "appropriate unit" means a group of public employees banded together for collective bargaining purposes as designated by the board."

Section 2. Section 59-1605, R.C.M. 1947, is amended to read as follows:

"59-1605. Unfair labor practices of employer or labor organization. (1) It is an unfair labor practice for a public employer to:

(a) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 3 [59-1603]

of this act;

(b) dominate, interfere, or assist in the formation or administration of any labor organization; however, subject to rules adopted by the board under section 12 (3), an employer is not prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(c) discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; however, nothing in this act or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require that an employee who is not or does not become a union member shall be required as a condition of employment to have an amount equal to the union initiation fee and monthly dues deducted from his wages in the same manner as checkoff of union dues;

(d) discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this act;

(e) refuse to bargain collectively in good faith with an exclusive representative.

(2) It is an unfair labor practice for a labor

organization or its agents to:

(a) restrain or coerce employees in the exercise of the right guaranteed in subsection (1) of section 3 [59-1603] of this act, or a public employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(b) refuse to bargain collectively in good faith with a public employer, if it has been designated as the exclusive representative of employees;

(c) use agency shop fees for contributions to political candidates or parties at state or local levels.

(3) For the purpose of this act, to bargain collectively is the performance of the mutual obligation of the public employer, or his designated representatives, and the representatives of the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached. Such obligation does not compel either party to agree to a proposal or require the making of a concession. ~~In negotiations---between---the---board---of--regents--and--the representative---of---the---exclusive---agent PROFESSIONAL EDUCATIONAL--EMPLOYEES,-the-student-government-may-designate~~

~~AGENT-OR-REPRESENTATIVE-OF-THE-STUDENT-GOVERNMENT'S-RIGHT-TO PARTICIPATE-DOES-NOT-PERTAIN-TO~~ a representative or agent to negotiate in its interest as a public employer in respect to the matters provided in this act except in negotiations concerning merit increases, television and radio tape residuals, evening and extension assignments, sabbatical leave, leaves of absence, maternity and sick leave, tenure, and intercollege agreements.

(4) This act does not limit the authority of the legislature, any political subdivision or the governing body, relative to appropriations for salary and wages, hours, fringe benefits, and other conditions of employment."

SECTION 3. THIS ACT IS EFFECTIVE ON ITS PASSAGE AND APPROVAL.

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